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World Chronicle

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GUEST: **Amb. SATYA NANDAN**
Chairman, UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks

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FISH WARS

Amb. SATYA NANDAN, Chairman of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, elaborates on international efforts to regulate the fishing industry world-wide. Marine catches are declining as a result of significant overfishing. Tens of millions of fish are either discarded at sea or used as fertilizer or animal feed. There is an urgent need for States to implement effective conservation and management measures to rebuild stocks. Amb. Nandan believes that the Legal Agreement on High Seas Fishing, which is near completion, would offer the best mechanism for resolving fishing disputes.

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ANNOUNCER: From United Nations Headquarters in New York, this is **World Chronicle**, an unedited interview programme about major global issues. Here now to introduce our guest is the host of today's **World Chronicle**.

LITTLEJOHNS: I'm Michael Littlejohns, and this is **World Chronicle**.

It's estimated that the global population may exceed 7 billion by the end of this century. With this increase, the demand for food is expected to increase by 50 per cent. If current fishing practices continue, one of our major food resources will soon be depleted. Hundreds of millions of people around the world may lose their primary source of food. Protecting and sustaining marine resources is essential not only for the survival of many societies, but for the achievement of long-term social and economic development as well. What can the international community do to protect this important source of food while preserving the biological richness of our oceans and coastal areas?

Our guest today is Chairman of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks. He is Ambassador Satya Nandan of Fiji. Joining me to talk with Ambassador Nandan are Trevor Rowe of National Public Radio and Bhaskar Menon of *The Times of India*. Ambassador Nandan, welcome to World Chronicle.

NANDAN: Thank you.

LITTLEJOHNS: Ambassador, after dealing with this problem for so long, I guess you must be fed up with fish and probably never want to see another one, but tell us, explain to us what these terms mean, "straddling fish stocks" and "highly migratory fish stocks".

NANDAN: Michael, I'm very pleased to be here with you. As regards the term "straddling fish stocks", this indicates that the fish species, or the stocks which we are talking about, are to be found in areas under national jurisdiction as well as in the adjacent high seas. So they straddle the boundaries of national jurisdiction and the high seas area. "Highly migratory fish stocks" are those that migrate during different times of their lives through very vast areas, sometimes going to different seas, and then coming back and forth. So they're very highly volatile, very highly migratory.

LITTLEJOHNS: Many of us read about the dispute between Spain and Canada over fishing in the North Atlantic around Newfoundland, and that problem seems to be more or less resolved, thanks to the willingness of the European Union and Canada to compromise. Is this the kind of thing which is going to become more and more common as stocks become more and more depleted? I mean, is it going to be extending out into the Pacific? Are we going to have clashes in the Pacific? Other oceans?

NANDAN: Yes, that particular dispute merely illustrates the problem that we are now confronting around the world. There is very keen competition, with the spectre of

fewer and fewer fish, and the result is that you have this kind of dispute where States are fighting for larger access or larger allocation of fish, while the resources are getting scarce. The Canadian-EU case is very illustrative of the problem we are facing. They have a dispute, or had a dispute, with respect to pollack, Icelandic pollack. There used to be something like 65,000 tons of pollack caught a year. And suddenly a --

LITTLEJOHNS: Pollack is what, a flat fish?

NANDAN: A flat fish. And suddenly this stock collapsed. And the result is that both sides, and indeed others who are party to the NAFOA, the North Atlantic Fisheries Organization Agreement, agree that the total allowable catch in the area should be no more than 27,000 tons. That's a big reduction.

LITTLEJOHNS: Per year?

NANDAN: Per year. And the issue between Canada and EU was the allocation within this reduced amount, the reduced allowable catch. And of course they did not agree on the initial allocation. I believe now they have sorted it out.

LITTLEJOHNS: But the Canadians also charge that the Spanish trawlers were bringing up immature fish and fishing for species which were under moratorium, is that not so?

NANDAN: Yes, that is also the charge. And I think part of the matter related to the issue of monitoring and surveillance of fishing vessels, to see whether they were catching what they were supposed to catch and whether they were catching the amount that they were supposed to catch. And I think this is part of this agreement which they have now resolved. They were monitoring it --

MENON: Before we get too technical on this, could I ask you to back up a little? Michael started this programme off by saying that because of population growth we need more fish to eat. What percentage of the fish that are caught now goes for human consumption?

NANDAN: Well, technically, or theoretically, all fish that are caught should go for human consumption --

MENON: Should.

NANDAN: -- because essentially that is the purpose. The amount of fish that are caught at this time is something around 91 million [metric] tons. And, again, this is on a reducing slope, as it were. Initially -- well, it reached the highest level, about 101.3 million tons, in 1989, and ever since then it's been sliding downwards, that is, the catch level.

LITTLEJOHNS: Because there are fewer and fewer fish to catch.

NANDAN: There are fewer and fewer fish to catch. So, I suppose theoretically everything is being caught for consumption, but of course it is well known that fish are used for other purposes, like manure and other things that they --

MENON: I've heard a statistic that only about 25 to 30 per cent of the fish caught is used actually for human consumption. The rest is fertilizer and animal feed and various other kinds of use.

LITTLEJOHNS: Fish meal, what's fish meal? Is that fertilizer?

NANDAN: Fish meal is fertilizer, and --

LITTLEJOHNS: Because Spain was apparently selling a lot of these Newfoundland fish to Japan for fish meal.

NANDAN: Well, fish meal could be used for fertilizer; it could also be used for feeding chickens and things like that as well. It's used for mixing in different things. I don't want to get into the different uses of it, but --

ROWE: Well, it's been pointed out that there has been an enormous advance in the technology used to extract fish, and this has helped to keep the prices of food low. Because even as stocks are being reduced, the technology is enhanced, so that they're still pulling out a lot of fish. I'm just wondering, are we in for something comparable to an oil shock -- a fish shock?

NANDAN: I think we are. We're already having that fish shock. It's not quite true that fish prices have gone done. In fact, on the contrary, if you go shop around in any country, you'll find that fish is getting more and more expensive, even for the average person --

ROWE: But the rise was controlled, because of the technology, it was still extracting more, or it had the ability, given the depleted resources. I mean, that's what I was --

NANDAN: Yes. Well, we are extracting more, but the quality of fish is not as desirable as it used to be. Most of the better quality fish is pretty well depleted or very heavily over-fished. For instance, FAO has indicated that 70 per cent of the world's fish, traditional commercial fish, is either over-exploited and in a state of collapse, or they are still recovering from a collapsed situation. And that's a very serious situation, as far as good commercial fish is concerned. What has happened is that because the good commercial fish are now scarce, fishermen are catching other species, and they're trying to make those species commercial which previously they thought were not of interest, which people did not eat. So it's true that there are more fish being extracted, but of other kinds, not the traditional fish. I used the term "more fish", but I think that's also incorrect,

because the overall catch from marine sources is on the decline, and it's been like that since 1989.

MENON: The terms in which this problem is explained -- you know, you say States will fight -- how many States are actually in the business of high technology fishing?

NANDAN: Well, most of the world's fish is caught by a few States, something like eight or nine States. Most of the commercial fish. And that is something like -- you're talking about 80 per cent of the fish.

MENON: And they catch this fish mostly for fertilizer and animal feed, so the terms in which this problem is usually understood are that people are fighting for fish to eat. Actually, it's about eight or nine States depopulating the oceans of the world so that they can have cheaper fertilizer.

NANDAN: I can't agree with that entirely. The thing is that they're catching fish for consumption. Now, what proportion of that they use for other purposes I really cannot say. But it is true that there are some very large fishing nations which have major fishing industries. But that in itself is not the problem. The problem is that fish stocks around the world, all the different species of fish that exist, are slowly declining. There are very few fish stocks that are in healthy condition. And the problem is that there has been, on the other hand, an increase in what you call capital investment, that is to say more vessels, more sophisticated technology to catch fish. And therefore there is considerable pressure on fish. At the same time, fishermen are not making the kind of profit that they think they're making, or that we all believe they're making, because there isn't enough fish to --

MENON: When you say "fishermen", do you mean corporations, or do you actually mean individual entrepreneurial fishermen?

NANDAN: Well, different countries have different -- Well, of course, fishing vessels are usually owned by corporations. They are not state-owned, I think, even in the Eastern Bloc, now that they have been privatized.

LITTLEJOHNS: But they're subsidized in many countries, aren't they?

NANDAN: Well, that is a major problem. That's the point I was trying to get at. There is over-capitalization in the industry, and this is due to excessive subsidization by industrialized countries in particular. There is something like $57 billion worth of subsidy paid into the fishing industry.

ROWE: Which begs the question, if I may interrupt, what is the political will, then, to reach an agreement that is going to undermine those investments?

NANDAN: Well, I think we have to face the fact that if we continue in this vein, there will be no fish to catch. And you are subsidizing an industry which is a losing industry.

ROWE: Well, you're in the business right now of trying to hammer out a world-wide agreement, yet events seem to be getting ahead of you. Already you have Canada reaching a separate agreement with the European Union. Are these matters going to be settled bilaterally, away from the UN, or are you going to be able to hammer out an agreement here? Is there the political will, or is it rhetorical here right now?

NANDAN: Well, I sense there is plenty of political will to establish global laws on the basis of which States will establish conservation and management measures for fisheries. This will apply not only in the case of high seas but also in areas under national jurisdiction, which are equally badly managed, by the way, at the moment. And we are also trying to set up mechanisms for better cooperation in the oceans in order that at regional and sub-regional levels States are able to establish conservation measures with which they can then ensure that their fishing vessels comply. And, at the same time, we are also trying to establish a mechanism for settlement of disputes arising out of fisheries matters.

So what we are doing here is establishing the principles and guidelines on the basis of which the international community should manage fish. The Law of the Sea Convention established certain principles, but it required that States should cooperate in order to establish these, to actually put these principles into practice. And we have seen that States have not cooperated in the way it was intended, so what we are doing here with this agreement which we are trying to forge at the Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks is to establish the detail norms that are necessary for States in order that they can exercise their fishing rights in the proper way.

LITTLEJOHNS: This is **World Chronicle**. Our guest is Ambassador Satya Nandan, Chairman of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.

Ambassador Nandan, we read a couple of years ago a good deal about these drift-nets that cover huge areas of the ocean, many square miles. And they were supposed to be outlawed, I think. Have they in fact been outlawed? And is there enforcement of that?

NANDAN: Yes, these have been outlawed through a resolution of the General Assembly, and I'm very pleased to tell you that, by and large, from all the information that we've had, it's been adhered to. States have either totally stopped the use of large-scale drift-nets or have phased them out or are phasing them out. In certain areas it's already completely stopped. In the European Community there was a phasing-out, and we hope that they will renew the standards that they have established. The large-scale drift-net that we were concerned about went up to 60 or 70 kilometres in length, and they were called "the wall of death" because they caught anything and everything that came in their way --

LITTLEJOHNS: Dolphins, whales?

NANDAN: Everything. And untargeted fish. Birds got snared in it. And --

MENON: Any human beings? Any unfortunate swimmers?

[LAUGHTER]

NANDAN: I have no account of that. But the good thing is that the world has seen that that is not a good method of fishing, and there has been a phasing-out of it.

LITTLEJOHNS: You mentioned a General Assembly resolution. Taiwan, I believe, is a big fishing country, and Taiwan, of course, is not a member of the United Nations. Have they been observing the law?

NANDAN: From all accounts, they have been. They have also phased themselves out of this practice. The problem of course is that when you are dealing with the oceans you are dealing with other States, and even though you may not be a party to an agreement or an arrangement, if you are in the field you have to follow what others are following as well.

MENON: You know, one of the things that has always sort of astonished me is how little people think that sea life should be treated the same as life that exists on land. There is no movement to look at the rights of sea creatures, as far as I know. This was brought home rather vividly to me the other day when I was watching television and I saw this ship, and they were after shark fin. It was a very specialized fishing vessel; all they wanted was shark fin. So they had this footage of them dragging out these enormous creatures out of the sea, slicing off their fins, and then throwing back the entire fish to die in the sea. If anything like that had happened on land, there would have been a huge outcry. But evidently this happens all the time.

NANDAN: Well, I guess it happens, and it's a wasteful practice.

MENON: At the end of the last session, Greenpeace made a statement saying that, while your words sounded very good, they had no faith at all that the governments or the people involved in doing this would actually do anything different. How do you respond to that?

NANDAN: Well, you know, we are trying to get a legally binding agreement, treaty. And the States who are negotiating this treaty seem to be quite serious. They're concerned about the problems regarding fisheries, and there is no reason why they will not honour their obligation under a treaty to which they are party, that is, if they become a party.

MENON: As I said, considering the lack of popular outrage at what's happening, do you think that it's realistic? People generally tend to laugh if you say that you don't have any empathy for fish.

NANDAN: Well, if you don't follow the practice which is generally agreed to at the international level, then you'll have conflict with other States who are also in the oceans

who would like to insure that fish are also properly managed, and you will have the kind of conflicts that we have seen in different parts of the world.

ROWE: On that point, we've seen people work out quotas -- Canada and the EU worked out a set of quotas. But then people manage to find ways of differing on what was meant by quotas. I believe that the Spanish decided that a quota was a minimum catch, guaranteed, as opposed to a ceiling, a maximum. So there seems to be lots of room for interpretation in these agreements. Given that this is a political exercise, do you have any certainty that you'll be able to work out an airtight agreement which makes clear to everybody what it's about?

NANDAN: All agreements have the possibility of different interpretations and different practical approaches to their implementation. And it is for this reason that it is important that agreements of this kind must have compulsory binding third party dispute settlement, so that the interpretation and application of the agreement is decided upon by a judicial body, whether it is an arbitral body, or a court, or the International Court of Justice, or the International Tribunal for the Law of the Sea.

ROWE: But one of the problems with that has been that people have sought third party solutions, but really what it does, it allows the person who was over-fishing to continue the practice until you have a resolution. This could take years.

LITTLEJOHNS: By then all the fish have gone.

ROWE: Yes.

MENON: Yes.

LITTLEJOHNS: Which was the Canadian argument, I think, against Spain. In connection with the World Court, why Canada refused.

NANDAN: One of the problems with the Canadian situation is that under the NAFO Agreement, that is the North Atlantic Fisheries Organization Agreement, there is no recourse to a dispute settlement procedure. The constitution of NAFO does not permit that. What it does permit is that if you don't agree with a quota, you just say no, and therefore everything falls. And that is a very unsatisfactory situation. What we are trying to do is to avoid that kind of thing in the agreement that we're trying to forge by providing for compulsory dispute settlement procedures. Just on the question of timing of submission, the time it takes to get a result from an arbitral tribunal, it is quite possible for States to go and get an interim order pending the final settlement of a dispute through the dispute settlement process or through their continued negotiation, which ever --

MENON: No, but long before it gets to dispute settlement, who's to monitor? These are ships out in the middle of the ocean. Who is to monitor what they're doing? Is there any capacity in your instrument to monitor what's being done?

LITTLEJOHNS: Well, Canada and the EU have agreed on monitoring, haven't they?

MENON: But how exactly will you do it?

NANDAN: Well, let me say in the agreement that we are forging we have provided for monitoring. Primarily, of course, the responsibility is that of the flag State, the State whose flag the fishing vessel is flying. But we are providing that that is not all. States which are part of the agreement in a regional or sub-regional arrangement where conservation and management measures are established should also have the right to board and inspect to see whether the vessels fishing there are not violating the agreement.

MENON: That's in your instrument?

NANDAN: Yes. In fact, the Canadian and EU agreement has just agreed on that point. They have agreed for inspectors to be on all the vessels that fish in the NAFO area, the North Atlantic area.

LITTLEJOHNS: What kind of inspectors? International inspectors?

NANDAN: They would be duly authorized inspectors through their sub-regional body, which is the North Atlantic Fisheries Organization.

LITTLEJOHNS: So in other words, you wouldn't have a Spanish inspector on a Spanish vessel?

NANDAN: No. Usually it will be the other side or some other third party.

LITTLEJOHNS: Because it looks like setting the fox to guard the chickens, doesn't it?

ROWE: What is your proposal? Is it similar to this?

NANDAN: Yes. And the proposal that we are discussing provides for boarding, inspection and observer programmes. And what we say is that, as in the Canadian-EU situation, that should be further elaborated upon and established at sub-regional or regional levels.

MENON: What is the time frame for this agreement to come into effect?

NANDAN: I have put in a provision for provisional application of the agreement almost six months after its adoption, so that we don't have to wait for its verification before it comes into force.

ROWE: On the monitoring and enforcement aspects, though, is there agreement?

NANDAN: There is broad agreement on the fact that there has to be clear provision for monitoring and inspection and for enforcement action. The remaining difficulty that we have, the remaining issue we are still negotiating and which I hope we can satisfactorily resolve, is the issue of enforcement by non-flag States, in respect of the measures agreed regionally....

LITTLEJOHNS: What does that term mean, enforcement by a non-flag State?

NANDAN: What it means is -- as I said, primarily, international law provides that it's the flag State that has the jurisdiction to board and inspect and take any measures, enforcement measures against its vessel on the high seas. Now, given the fact that ships today travel great distances and fish in far corners of the world, and it is not always possible for flag States to be there or to effectively exercise their jurisdiction, it should be possible for other States who are part of a regional agreement where they have established certain management and conservation standards to also take enforcement action by boarding and inspecting when they are suspicious of a vessel's fishing practices. That is, when they feel that there may have been a violation.

ROWE: So far, though, what you basically have is a wonderful agreement but with no teeth in it.

NANDAN: Well, I won't say that.

LITTLEJOHNS: You would not say that?

NANDAN: I won't say that. We have an agreement which is generally agreed to on all its aspects. What we have to further refine is this whole issue of enforcement. There is willingness to deal with it --

ROWE: But those are the teeth. Those are the teeth.

NANDAN: That's the teeth. There's a willingness to deal with it, but we still have to look at the precise wording of it.

LITTLEJOHNS: Can you foresee a United Nations fish police, international monitors and inspectors?

NANDAN: That would be too ambitious.

LITTLEJOHNS: But you really feel you've cracked most of the problem now?

NANDAN: Yes. What we are trying to establish is that there should be regional regulatory areas, and the arrangements for those regulatory areas should include enforcement measures or procedures by flag States and non-flag States, in the interest of conservation.

LITTLEJOHNS: And this document could be ready for signature in 1996?

NANDAN: We hope so. We expect so.

LITTLEJOHNS: Ambassador Nandan, thank you for telling us about a very interesting subject. We've been reading a lot about it in the newspapers, and you've enlightened us enormously. And that's all the time we have. Thank you for being with us on this edition of **World Chronicle**.

Our guest has been Ambassador Satya Nandan, Chairman of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks. He was

interviewed by Trevor Rowe of National Public Radio and Bhaskar Menon of *The Times* of India. I'm Michael Littlejohns. Thank you for joining us. We invite you to be with us for the next edition of **World Chronicle**.

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